

REMARKS

Favorable reconsideration is respectfully requested in light of the above amendments and the following comments. The claims have been amended for clarity. In particular, the claims unnecessarily referred to a tube as being a first tube, a lumen as being a first lumen and a port as being a first port, with no ensuing second tube, second lumen or second port. Thus, Applicants have amended claims 1, 7, 8, 9, 14, 15, 16 and 21. Clearly, these amendments enter no new matter and by themselves provide no necessitation of new grounds of rejection.

Applicants respectfully traverse the Examiner's rejection of claims 1-6, 8-13 and 15-20 under 35 U.S.C. § 102(b) as anticipated by McIntyre et al., U.S. Patent No. 5,334,153. In order to anticipate, the cited reference must disclose each and every element of the claimed invention. McIntyre et al. fail to do so.

The claimed invention requires a catheter assembly having a tube with a lumen running through the tube. The lumen is in fluid communication with an inflatable member (such as a balloon) that is positioned near the distal end of the tube. A port that is in fluid communication with the lumen is positioned at the proximal end of the tube. A seal is releasably attached to the port so as to substantially prevent air moving into the lumen.

In contrast, McIntyre et al. describe a catheter having an inner member 2, a collapsible outer member 4, and a port member 20 that is secured to the outer member 4 and can be tightened down onto the inner member 2. McIntyre et al. appear to be directed to being able to collapse the outer member 4 to minimize its interior volume prior to evacuating the air out of the outer member 4.

In particular, McIntyre et al. disclose seal elements 26 and 28 that appear to be involved in sealing the port member 20 against the outer surface of the inner member 2. However, McIntyre et al. do not disclose a seal that prevents air passage into the lumen that is in fluid

communication with the inflatable member, because McIntyre et al. disclose a port member 20 that includes a side leg 22 that is in fluid communication with the lumen that is in fluid communication with the inflatable member. Clearly, air can reach the aforementioned lumen simply by passing through the side leg 22 into the lumen.

Thus, McIntyre et al. fail to disclose the claimed seal, which as recited in the claims is required to prevent air passage into the aforementioned lumen. Therefore, McIntyre et al. fail to disclose all elements of the claimed invention and, therefore, the rejection should be withdrawn. Favorable reconsideration is respectfully requested.

Applicants respectfully traverse the Examiner's rejection of claims 1, 2, 8, 9 and 15 under 35 U.S.C. § 102(b) as anticipated by Lafontaine et al., presumably U.S. Patent No. 5,647,847. In order to anticipate, the cited reference must disclose each and every element of the claimed invention. Lafontaine et al. fail to do so.

In particular, Lafontaine et al. describe (with reference, for example, to Figure 4) a seal 46 that is releasably attached to a port 27. A lumen 31 that extends through the port 27 is in fluid communication with a balloon 22. Lafontaine et al. disclose that the seal 46 is intended to prevent fluid from escaping from the lumen while inflating and deflating the balloon 22. This occurs after the gas (air) within the inflation lumen 31 has been displaced with a liquid fluid such as radiopaque contrast liquid solution. As the liquid fluid has been injected into the lumen to displace any air present, one of skill in the art would recognize that the fluid is likely at or above atmospheric pressure.

Thus, Lafontaine et al. do not describe a seal that is attached to prevent the passage of air into the lumen where the lumen is at a pressure that is less than atmospheric pressure. Therefore,

Lafontaine et al. fail to describe all claimed elements and, thus, cannot be considered as anticipating the claimed invention. Favorable reconsideration is respectfully requested.

Applicants respectfully traverse the Examiner's rejection of claims 7, 14 and 21 under 35 U.S.C. § 103(a) as unpatentable over McIntyre et al., U.S. Patent No. 5,334,153. McIntyre et al. are distinguished above as failing to describe the claimed invention. Claims 7, 14 and 21 are similarly patentable over McIntyre et al. as they add important limitations. Favorable reconsideration is respectfully requested.

Applicants respectfully traverse the Examiner's rejection of claims 3-7, 10-14 and 16-21 under 35 U.S.C. § 103(a) as unpatentable over Lafontaine et al., U.S. Patent No. 5,647,847. Lafontaine et al. are distinguished above as failing to describe the claimed invention. Claims 3-7, 10-14 and 16-21 are similarly patentable over Lafontaine et al. as they add important limitations. Favorable reconsideration is respectfully requested.

Applicants respectfully traverse the Examiner's rejection of claims 1-21 under 35 USC § 103(a) as unpatentable over Hansen, U.S. Patent No. 6,575,937. As noted by the Examiner, this reference is only available as prior art under 35 U.S.C. § 102(e) and, thus, can be removed as available prior art, in accordance with MPEP § 706.02(l)(1) and § 706.02(l)(2), by virtue of common ownership.

Thus, Applicants state that the subject matter disclosed in Hansen and that of the claimed invention were commonly owned or subject to common assignment at the time the claimed invention was invented. Therefore, Hansen is not available as prior art and the rejection should be withdrawn. Applicants do not concede the relevancy of Hansen to the claimed invention.

Applicants respectfully traverse the Examiner's rejection of claims 1-21 under 35 U.S.C. § 103(a) as unpatentable over Rauker et al., U.S. Patent No. 6,475,185. Rauker et al. is only

available as prior art under 35 U.S.C. § 102(e) and, thus, can be removed as available prior art, in accordance with MPEP § 706.02(l)(1) and § 706.02(l)(2), by virtue of common ownership.

Thus, Applicants state that the subject matter disclosed in Rauker et al. and that of the claimed invention were commonly owned or subject to common assignment at the time the claimed invention was invented. Therefore, Rauker et al. is not available as prior art, and the rejection should be withdrawn. Applicants do not concede the relevancy of Rauker et al. to the claimed invention.

Applicants respectfully traverse the Examiner's rejection of claims 1-21 under 35 U.S.C. § 103(a) as unpatentable over DiCaprio et al., U.S. Patent No. 6,176,843. DiCaprio et al. is only available as prior art under 35 USC § 102(e) and, thus, can be removed as available prior art, in accordance with MPEP § 706.02(l)(1) and § 706.02(l)(2), by virtue of common ownership.

Thus, Applicants state that the subject matter disclosed in DiCaprio et al. and that of the claimed invention were commonly owned or subject to common assignment at the time the claimed invention was invented. Therefore, DiCaprio et al. is not available as prior art, and the rejection should be withdrawn. Applicants do not concede the relevancy of DiCaprio et al. to the claimed invention.

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Reply to Office Action of September 11, 2003

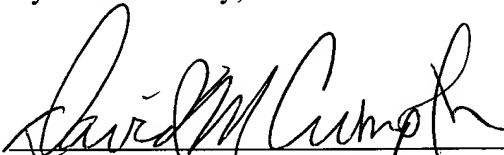
Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

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By their Attorney,

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